Supreme Court, U.S.
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No. _____

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In the Supreme Court of the United States

OFFICE OF THE CLERK

OCTOBER TERM 1995

RICHARD SHANE COLLINS,
a/k/a RICHARD TWEEDLIE,
Petitioner,

v.

COMMONWEALTH OF VIRGINIA,
Respondent.

On Petition For Writ Of Certiorari
To The Supreme Court Of Virginia

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW:

Whether a criminal defendant's right to a fair and impartial jury under the Sixth and Fourteenth Amendments to the U.S. Constitution was violated when the trial court allowed the withdrawal of a motion for mistrial that was granted due to the bias of one juror, excusing the biassed juror and allowing the remaining eleven jurors to be empaneled along with a new juror, without any investigation to determine if the biassed juror's communications had tainted the eleven jurors from the original panel?

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OPINIONS BELOW

The decision of the Virginia Court of Appeals was set forth in unpublished opinion (Appendix A--2) on March 7, 1995; the order of the Supreme Court of Virginia denying review (Appendix A-1) was entered on June 21, 1995.

JURISDICTION

The order of the Supreme Court of Virginia denying review was entered on June 21, 1995, and the unpublished opinion of the Virginia Court of Appeals issued on March 7, 1995. The jurisdiction of this Court to review the judgment or decree in question by writ of certiorari is believed to be conferred by 28 U.S.C. 1257.

CONSTITUTIONAL PROVISIONS & STATUTES

U.S. CONST. amend. VI:
In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

U.S. CONST. amend. XIV:
All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

On the night of November 16, 1992, an adult female (hereinafter the "victim") was in the process of closing a free-standing jewelry shop (located within the Manassas Mall) when Richard Shane Collins forced her at gunpoint to hand him the shop's safe deposit bag, empty its cash register, and accompany him to his automobile in the mall parking lot. Mr. Collins drove the victim to another parking lot about one mile away from the mall, ordered her to remove all her clothes, engaged in cunnilingus with her against her will. Mr. Collins drove another quarter of a mile and told the victim to get on top of him, which she refused to do. After that, Mr. Collins began driving back towards the mall, and the victim testified that his gun was between his legs while he was grabbing cigarettes from the car seat, when she grabbed the gun from between his legs [Transcript 116] with the possible intent of shooting him [Transcript at 158]. An intense struggle for possession of the gun ensued [Transcript 118], ending with the gun discharging through the automobile's ceiling. The victim testified that both before and during the struggle, Mr. Collins threatened to kill and rape her.

After the gun discharged, the victim exited the automobile and ran into the woods. Soon after, she was able to flag down a vehicle and was taken to the Manassas City Police Station. She provided the police with a description of Mr. Collins and aided them in the creation of a composite sketch. Mr. Collins was apprehended and ultimately indicted for the felonies of attempted capital murder, abduction with the intent to defile, and forcible sodomy; two counts of escape; armed robbery; attempted rape; and using and/or displaying a firearm in the commission of five separate felonies. A jury was empaneled, sworn, and then sent to the jury deliberation room for a brief recess.

The question presented in this petition was first raised on July 13, 1993, after the empaneled jury had been sent to the jury room, when one of the jurors notified a bailiff, and then the trial judge, that he had some concerns about his impartiality. When questioned by the judge and both counsel, this juror indicated that as an FBI agent, he was biassed and would give more credence to the testimony of a law enforcement officer based on the officer's official status. That juror was then returned to the jury room. Defense counsel made an oral motion to strike the juror for cause and for a mistrial, which motions the trial judge granted. The biassed juror was then excused from service.

Afterwards, defense counsel agreed to the requests of the prosecutor and the trial judge that a new jury be formed from the remaining eleven jurors with the addition of a twelfth juror to be selected from a new panel. After the defendant agreed to proceed in this manner, the motion for mistrial was withdrawn, the new juror was selected, and the new jury was sworn. At no time did the trial judge ask the biassed juror or the remaining eleven jurors any questions to determine what, if any, communications between the biassed juror and the bailiff had occurred in the presence of the other eleven panel members or what, if any, communications had occurred between the biassed juror and the other eleven panel members.

Trial then proceeded. In motions to strike the Commonwealth's case, defense counsel argued that the evidence showed that Mr. Collins lacked the specific intent to kill the victim, because the gun was discharged during a struggle. The trial court denied the motions to strike.

Defense counsel had also tendered an instruction that would have informed the jury that assault is a lesser included offense of attempted capital murder and would have given

the jury the alternative of convicting Mr. Collins of the lesser offense. The trial judge refused to give that instruction.

The jury found the defendant guilty of all charges on July 14, 1993. On September 23, 1993, Richard Shane Collins was sentenced to the following terms of imprisonment in the penitentiary by the Honorable William D. Hamblen, of the Commonwealth of Virginia's Prince William County Circuit Court: three separate sentences of life in prison for the crimes of attempted capital murder, abduction with the intent to defile, and forcible sodomy; two separate five year sentences for the crimes of escape (suspended); 50 years for the crime of robbery (suspended); ten years in prison and a fine of $25,000.00 for the crime of attempted rape (suspended); and a total of 18 years imprisonment for using and/or displaying a firearm in the commission of five separate felonies. Excluding the judge's decision suspending sentences, the sentences were given by the court in accordance with the jury's verdict.

Mr. Collins appealed to Virginia's Court of Appeals, based on claims of the insufficiency of evidence of intent, of the trial judge's failure to secure an impartial jury, and the trial judge's failure to instruct the jury on the lesser included offense of assault. The Court of Appeals affirmed the decision below, and the Supreme Court of Virginia denied Mr. Collins's petition for review of the decision of the Court of Appeals.

ARGUMENT: REASONS FOR GRANTING THE WRIT

The actions of the trial judge, as well as the decisions of the Virginia Court of Appeals and the Supreme Court of Virginia affirming the *Collins* case, decided an important federal constitutional question in a manner that is probably not in accord with applicable decisions of this Court and of at least two United States courts of appeal. The

decisions of the courts below deprived Mr. Collins of his right to a trial by an impartial jury, as guaranteed by the Sixth and Fourteenth amendments to the United States Constitution.

The right to a jury trial includes the guarantee of a fair and reasonable determination of guilt by a jury able and willing to decide the case solely on the evidence before it. *E.g., Irvin v. Dowd*, 366 U.S. 717 (1961). It requires a fair trial by a panel of impartial jurors. See, *e.g., Turner v. Louisiana*, 379 U.S. 466 (1965) (reversing despite lack of any evidence of prejudicial communications or other actual prejudice where two chief prosecution witnesses were the bailiffs in charge of the jury hearing the case).

It is the responsibility of the trial judge "to prevent prejudicial occurrences and to determine the effect of such circumstances when they happen." *Smith v. Phillips*, 455 U.S. 209, 217 (1982). The trial judge failed to fulfill this responsibility in the *Collins* case, when it sanctioned the withdrawal of a motion for mistrial after it had been granted because of the discovery that a biassed juror had been empaneled and sworn, especially when the trial judge failed to require any investigation to assure that the biassed juror had not tainted the other eleven jurors in the original jury.

"In a criminal case, any private communication, contact or tampering, directly or indirectly, with a juror during a trial about the matter pending before the jury is . . . deemed presumptively prejudicial . . . ." *Remmer v. U.S.*, 347 U.S. 227, 229 (1954). The burden rests on the prosecution to establish that such contact with the juror was harmless to the defendant, *id.*, and it is the duty of the trial court to conduct a hearing to determine the circumstances of such contact, the impact on the juror and whether or not it was prejudicial, *id.* at 230. It makes no dif-

ference jury infected by prejudice before the actual trial begins. See, *e.g., Irvin v. Dowd, supra*. A rebuttable presumption of prejudice necessarily arises from communications made after a jury has been sworn. See, *e.g., Stockton v. Commonwealth*, 852 F.2d 740, 744 (4th Cir. 1988), *cert. denied*, 109 S.Ct. 1354 (1989).

This Court reaffirmed its commitment to the guarantee of a fair and impartial jury, in *Smith v. Phillips*, 455 U.S. 209 (1982). In *Smith*, the Court emphasized that although a new trial may not always be required, a trial judge must determine whether circumstances of alleged bias have amounted to prejudice to the defendant. *Id.* at 217. The *Smith* case expressly acknowledged that, in such circumstances, it is the duty of the trial judge to "be ever watchful to prevent prejudicial occurrences and to determine the effect of such occurrences when they happen." *Id.*

In applying this Court's precedents, the intermediate federal appellate courts have reached sometimes conflicting decisions over the standards and procedures to be applied. Most of the decisions have recognized the need for individual questioning of all of the jurors when an incident of outside contact or of juror misconduct about the matter before the jury occurs, whether such questioning is conducted pre-trial or post-verdict.

For example, in *U.S. v. Shapiro*, 669 F.2d 593 (9th Cir. 1982), the Ninth Circuit emphasized that when the taint originates from within the jury itself, the government has the burden of showing that the tainted juror did not influence others. 669 F.2d at 603.

In a more recent case, *U.S. v. Angulo, et al.*, 4 F.3d 843 (9th Cir. 1993), the Ninth Circuit decided that the need for a hearing on whether a jury has been tainted is not negated by a defense counsel's failure to request one. *Id.* at 848. The *Angulo* decision

expressly relied on *Smith v. Phillips* in ruling that the motion for a new trial or request for mistrial would of itself trigger the need for inquiry. 4 F.3d at 848. The *Angulo* court emphasized the trial judge's protective and investigative role and states, "[b]ecause even a single partial juror violates a defendant's constitutional right to a fair trial, a judge must always act to diligently preserve that right."

A recent Seventh Circuit decision agreed with the *Angulo* decision, holding that a trial judge erred in failing to conduct a post-verdict hearing to address the issue, even if the defendant had failed to request one. *Unites States v. Smith*, 26 F.3d 739, 758 (7th Cir. 1994), *cert. denied*, 115 S.Ct. 680; *but cf. United States v. Moses*, 15 F.3d 774, 778-9 (8th Cir. 1994), *cert. denied*, 114 S.Ct. 2691 (vague and unclear fears and suspicions expressed by juror did not require hearing).

At least one Sixth Circuit decision has opined that removing a tainted juror from a jury before he had the opportunity to discuss the case with the other members would be some evidence that no prejudice occurred, *U.S. v. Ferguson*, 486 F.2d 968 (6th Cir. 1973), "[y]et it would not change the inquiry that there should no longer be a presumption of prejudice," *id.* at 971.

If the question presented by this case was not directly addressed by *this Court and* federal appellate court decisions such as *U.S. v. Angulo* and *U.S. v. Ferguson*, then there is even far more reason for the Court to address this case, because it involves a question of critical importance in the administration of justice.

This case is important to Richard Shane Collins, who will serve most if not all of the remainder of his life in Virginia's penitentiary system if the writ is not

granted. It also has far-reaching consequences that are crucial to the administration of justice.

Although the *Collins* case might present a slightly different context from that presented in some of the U.S. Supreme Court and Circuit Court decisions addressing the question of a jury's impartiality, in that in *Collins* a mistrial was granted and then withdrawn (albeit by agreement), and the putative prejudice involved contact between jurors and a biassed juror, it is nevertheless in the interests of the administration of justice for the Court to address this case.

First, the potential prejudice is equivalent to the risk of prejudice in existing precedents, because *Collins* involves essentially the same risk of potentially prejudicial communications tainting remaining jurors.

Second, the trial judge's declaration in *Collins* of a mistrial implicitly and expressly comprised a finding that the risk of prejudice was too great to allow the jury to be considered a fair and impartial one. Such a finding that the jury panel was tainted is not eradicated even if a defendant expressly agrees to waive any right to double jeopardy protections.

Once the mistrial was thus granted, it could not be withdrawn. Although the trial judge, prosecutor, and defense counsel might all have mistakenly believed they had the power to agree to withdraw the motion after such a finding, no consideration was given by any of them to the effect of the juror's replacement on the remaining jurors. The appellate courts erred in ruling that Mr. Collins could so waive his right to a fair and impartial jury trial.

In ruling on double jeopardy claims, some

state courts have expressly held that a request to withdraw a motion for mistrial comes too late when it is made after the motion was granted and the jury discharged. See, *e.g.*, *Walker v. State*, 262 Ark. 331, 556 S.W.2d 655 (1977); *cf. People v.Catten*, 69 N.Y.2d 547, 516 N.Y.S.2d 186, 508 N.E.2d 920 (1987)(trial court did not abuse discretion in refusing to allow withdrawal after mistrial granted but jury not yet dismissed); in *accord, State v. Hurd*, 496 N.W.2d 274, 277 (Iowa App. 1992) (citing, *inter alia*, *MacPherson v. State*, 533 P.2d 1103, 1105 (Alaska 1975); *U.S. v. Evers*, 569 F.2d 876, 878 (5th Cir. 1978); *Cardenas v. Super. Ct. of Los Angeles County*, 56 Cal. 2d 273, 363 P.2d 889, 14 Cal. Rptr 657 (1961); *State v. Himes*, 153 Fla. 711, 15 So.2d 613 (1943).

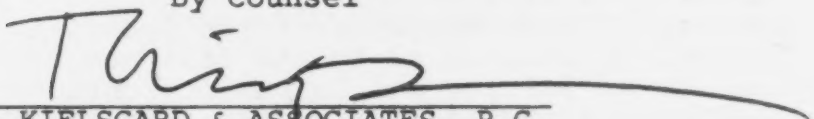
This case concerns the protection of fundamental rights, as well as the public's perception of the integrity of the judicial system. It is crucial to the fair administration of justice and to public confidence in the criminal justice system that trials be conducted fairly and impartially and that the appearance of juror purity be maintained. Although a defendant may waive his right to a jury trial, he may not waive his right to a fair jury trial once he has exercised his right to be tried by a jury.

The Virginia appellate courts erroneously ruled that Mr. Collins's waived his constitutional rights by his failure to expressly request a hearing or second *voir dire*. That decision is clearly in conflict with the state and federal cases discussed above. Moreover, these cases clearly show that it is a trial judge's duty to protect a defendant's right to an impartial jury. The trial judge might easily have fulfilled that duty by conducting a second *voir dire* of the remaining jurors or conducting a post-trial hearing. Doing so would have minimized any potential prejudice and would have demonstrated to Mr. Collins and society that the

court system guarantees the right to a fair and impartial jury trial. The motion for mistrial itself should have been sufficient request to invoke inquiry into the possibility of bias affecting the other eleven jurors. Despite defendant's failure to specifically request any hearing, the trial judge's failure to require any investigation denied petitioner the protection of his right to an impartial jury as guaranteed by the Sixth and Fourteenth Amendments to the U.S. Constitution.

For the reasons set forth herein, the Court should grant certiorari to review this matter and determine whether the convictions of the petitioner must be set aside.
Respectfully submitted,

RICHARD SHANE COLLINS,
By Counsel



LOVE, KIELSGARD & ASSOCIATES, P.C.
Thierry Barston, Counsel of Record
James C. Love IV

APPENDIX

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Wednesday the 21st day of June, 1995.

Richard Shane Collins, a/k/a Richard Tweedlie, Appellant,

against Record No. 950629
Court of Appeals No. 2128-93-4

Commonwealth of Virginia, Appellee.

From the Court of Appeals of Virginia

Upon review of the record in this case and consideration of the argument submitted in support of the granting of an appeal, the Court refuses the petition for appeal.

And it is ordered that the Commonwealth recover of the appellant the costs in the courts below.

A Copy,

Teste:

David B. Beach, Clerk

By:
Deputy Clerk

COURT OF APPEALS OF VIRGINIA

Present: Judges Barrow, Koontz and Fitzpatrick
Argued at Alexandria, Virginia

RICHARD SHANE COLLINS,
a/k/a RICHARD TWEEDLIE

v. Record No. 2128-93-4 MEMORANDUM OPINION BY JUDGE BERNARD G. BARROW
March 7, 1995

FROM THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY
William D. Hamblen, Judge

James C. Love IV (Love, Kielsgard & Associates, on brief), for appellant.

Monica Sergent, Assistant Attorney General (James S. Gilmore III, Attorney General; Katherine P. Baldwin, Assistant Attorney General, on brief), for appellee.

In this criminal appeal we hold that (1) the evidence supported the conviction for attempted capital murder; (2) the evidence did not support an instruction for assault; and (3) the failure of the defendant to object to the composition of the jury bars us from considering this issue as a basis for reversing his convictions.

Sufficiency of the Evidence of Attempted Capital Murder

When reviewing the sufficiency of the evidence presented at trial to support a conviction, we view the evidence and all reasonable inferences fairly deducible from the evidence in the light most favorable to the Commonwealth, and we will not disturb a jury's verdict unless plainly wrong or unsupported by the evidence. Maynard v. Commonwealth, 11 Va. App. 437, 439, 399 S.E.2d 635, 637 (1990) (en banc).

To prove attempted capital murder, the Commonwealth must prove "(1) the specific intent to commit capital murder, and (2) an ineffectual act done towards its commission." Bell v. Commonwealth, 11 Va. App. 530, 533, 399 S.E.2d 450, 452 (1991). A defendant's specific intent must be shown by his or her words or conduct. Id.

Here, the victim testified that the defendant had threatened repeatedly to rape her and to "blow [her] head off" and said "if he had to drag [her] into the woods, blow [her] head off and rape [her] dead, he would." He pointed the gun to the front of her head, and as she pushed it away with her hand on the barrel end, the gun fired, shooting a hole in the ceiling of the car and leaving a burn on her hand. The defendant's words and acts were sufficient to prove attempted capital murder.

Instruction on Assault

To determine the propriety of the defendant's proposed instruction, we view the evidence in the light most favorable to the defendant. Blondel v. Hays, 241 Va. 467, 469, 403 S.E.2d 340, 341 (1991). "[M]ore than a scintilla" of evidence must support such an instruction. Buchanan v. Commonwealth, 238 Va. 389, 409, 384 S.E.2d 757, 769 (1989), cert. denied, 493 U.S. 1063 (1990).

Attempted capital murder requires proof of specific intent to kill and an overt act; criminal assault, a lesser included offense, is an "attempt or offer with force or violence to do corporal hurt to another." Martin v. Commonwealth, 13 Va. App. 524, 527, 414 S.E.2d 401, 402 (1992) (citations omitted); see Wynn v. Commonwealth, 5 Va. App. 283, 292, 362 S.E.2d 193, 198 (1987).

The defendant's theory of the case was that the victim fired the gun in a struggle

over the weapon. He denied making any threats and he never claimed that he intended to scare or hurt the victim. Therefore, the trial court properly determined that no theory supported a finding that the defendant was guilty of assault -- either the defendant was guilty of attempted capital murder or he was innocent because the victim actually shot the gun.

Impartiality of the Jury

Because the defendant withdrew his request for a mistrial and a new jury and accepted the jury as constituted, the defendant has failed to preserve the question of the impartiality of the jury for this court to review on appeal. Rule 5A:18. He has made no showing that good cause exists or that the ends of justice require us to address the question. See Campbell v. Commonwealth, 14 Va. App. 988, 996, 421 S.E.2d 652, 656-57 (1992) (Barrow, J., concurring).

Therefore, the judgment of conviction is affirmed.

Affirmed.

Excerpt from trial transcript, July 13, 1993:

* * *

THE COURT: For the record these are the cases of Commonwealth versus Collins, Criminal Numbers 32716 through 32737. Let the record reflect the Defendant, his counsel, and the Assistant Commonwealth's Attorney are present in court and the jury is not.

At the recess one of the jurors advised -- made some reference to the bailiff with regard to some discomfort he might feel in trying this case. I don't know what that means. It's Mr. Jackson, the person who had the prior commitment. He expressed that to the bailiff and I think that needs to be explored before we go further in this case.

MR. WILLETT: Before we do that, Judge, are there any jurors that we can hold?

THE COURT: They're gone.

MR. WILLETT: Can we call some in, sir, because we've got speedy trial problems and I've got a victim who's been delayed before, and it would be unconscionable to delay this trial on her again, should this juror be disqualified.

THE COURT: I don't know the answer to that, Mr. Willett. I can't say it's impossible, certainly. I think the thing to do, as far as the threshold matter, is to determine what Mr. Jackson's concern is. Because it may be a serious sort of a concern, it may not.

Do you agree with that Mr. Reichhardt?

MR. REICHHARDT: I think I did, Your Honor, if what you're saying is we need to talk --

THE COURT: Do you think you agreed with

me?

MR. REICHHARDT: I'm sorry?

THE COURT: I asked you if you agreed with me.

MR. REICHHARDT: Yes, I think it has to be explored.

THE COURT: All right, get Mr. Jackson in here then.

(Mr. Jackson entered the courtroom and took a seat in the jury box.)

THE COURT: Mr. Jackson, the reason you're here is, of course, you expressed some concerns to the bailiff about your service on this jury. Without me saying anything more, sir, would you tell me what concerns you have, sir, so we can explore that a little bit.

MR. JACKSON: Well, sir, I am a law enforcement officer, and I do think I have a tad bit of a bias because of that. And I investigate criminal violations and I investigate criminals on a daily basis. And I just have a bias because of that. And I was just a little concerned and I thought the Court should know. I just wanted to make it clear.

THE COURT: Is your feeling such that you think that you would not be able to serve as a juror impartially in this case?

MR. JACKSON: Yes.

THE COURT: Any questions?

MR. WILLETT: Yes, sir.

MR. JACKSON, the Judge asked you, asked everybody early on if they knew of any reason whatsoever why they couldn't serve on the

case, and you did not raise your hand at that time.

MR. JACKSON: No, I didn't because I thought you were aware that I was in law enforcement.

MR. WILLETT: You know from your experience how serious an offense this is, how difficult it is for the victim to get ready for trial.

MR. JACKSON: (Nodding head.)

MR. WILLETT: And what type of trouble we've gone through to put this evidence on.

MR. JACKSON: Un-huh.

MR. WILLETT: Are you saying that because you're an FBI agent you could not fulfill your obligation under the law and put aside your personal feelings and judge this case fairly?

MR. JACKSON: No sir, I'm just saying that I think -- I don't know if it was really clear what my position is, and my feeling towards law enforcement, and my feeling towards that sort of thin. I just thought the Court should be aware.

MR. WILLETT: We appreciate that. I think probably we all were, because we knew what you did for a living.

Could you take those feelings, those predispositions that you have, and view the evidence fairly on behalf of Mr. Collins?

MR. JACKSON: Probably.

MR. WILLETT: Could you follow the law objectively s Judge Hamblen instructs you at the end of the case with respect to the burden of proof and what the Commonwealth's responsibilities are?

MR. JACKSON: Could I follow the law?

MR. WILLETT: Yes, sir.

MR. JACKSON: Yes, sir.

MR. WILLETT: Thank you.

THE COURT: Mr. Reichhardt, any questions for this gentleman?

MR. REICHHARDT: Yes, sir.

Mr. Jackson, when you answered His Honor's questions about bias, you answered yes, you just told His Honor that you have a bias. Do you understand that bias to be towards law enforcement officers? In other words, officers who testify in the case you're going to give their testimony more weight?

MR. JACKSON: Probably would.

MR. REICHHARDT: Probably would.

And do we understand that bias to be bias toward the law enforcement/prosecution side of things; is that the kind of bias you're talking about?

MR. JACKSON: I'm not real certain what you're saying.

MR. REICHHARDT: Well, let me ask you this, if I may. When His Honor asked you if you were biased you said yes. What did you mean?

MR. JACKSON: I meant that as far as like the first question, as far as a law enforcement officer testifying, as far as their job, their responsibility, I am more towards the law enforcement side of it. I am biased towards that because they go out and do a job that's very tough and demanding, and I know they do a competent job. So I am more towards that side, as far as law enforcement,

that's my bias.

MR. REICHHARDT: Mr. Jackson, you were just impaneled on this jury and during the recess something came to your mind to cause you to bring this to Judge's attention about whether you could sit on the jury.

MR. JACKSON: (Nodding head.)

MR. REICHHARDT: Do you think you should sit on this jury?

MR. WILLETT: Objection. That's not for Mr. Jackson to decide.

MR. REICHHARDT: Well, Your Honor, I'll strike that question.

What was the reason that you wanted to bring this to the Judge's attention?

MR. JACKSON: I wanted to bring it to the Judge's attention because I just wanted it to be clear, as far as my feelings are concerned, as far as law enforcement. My bias may be leaning towards, if a law enforcement officer had to testify, my feeling towards that -- my feeling is that I'm a little bit more towards law enforcement.

I would be more in agreement with probably something they would have to say more so than the other side. I'm a bit biased on that side. I don't know if I'm making myself clear.

MR. REICHHARDT: I think you are.

MR. JACKSON: Let me say this. I just felt, maybe at the time you asked the question, I don't think your questions were specific enough for me to answer or to raise my hand and give you an answer. I didn't really feel that the question -- a couple of questions that you posed to the jury, as far as I was concerned, was anything that I could

possibly step up and say as far as bias or unbias.

It was very vague and very broad, and I didn't feel I had a point at that time to address it. So, when we stepped out I just thought it should be something that I should express to the Judge.

MR. REICHHARDT: That's all I have.

THE COURT: Any further questions?

MR. WILLETT: No sir.

THE COURT: All right, Mr. Jackson, thank you, sir. If you'd go with the bailiff please.

(Whereupon, the juror departed from the courtroom.)

THE COURT: Mr. Reichhardt?

MR. REICHHARDT: Your Honor, I think the juror has to be stricken for cause. On your direct question you asked him, are you based to the extent, I mean, your questions clearly related to his ability to weigh the evidence. The answer was, yes, I'm biased. We explored that a little bit from both sides, but I don't think there's any questions about that.

I think Mr. Jackson's been quire candid. He may not have heard the right questions or the right statements either from counsel or the bench in his mind before he went on that brief recess. But when he got back into that room, clearly it's in his mind that he's got a bias, to the extent of bringing it to your attention. I'm glad he did. But it's a fact, I don't think can be ignored. And I think he has to be stricken for cause.

THE COURT: Mr. Willett?

MR. WILLETT: Judge, there's a little procedure problem with that, it's too late for striking people for cause. That time has passed, the jury panel has been sworn in.

If Mr. Reichhardt did not ask questions which probed this particular aspect of this juror's position, perhaps he chose not to do so for very good reasons. He should not be allowed the benefit of that tactical decision at that time and an additional opportunity to strike for cause

after this case has been placed in jeopardy.

Now if he's struck for cause and we can't bring in another juror, what does double jeopardy say with respect to that?

THE COURT: I don't understand the Defendant's position. You would or would not agree with the proposition of this Defendant being tried by 11 people on this jury?

MR. REICHHARDT: Would not agree.

THE COURT: Would not?

MR. REICHHARDT: Would not.

THE COURT: So, the necessary consequence of striking him from the jury would be what?

MR. REICHHARDT: Unless another juror could be put in it may be grounds for a mistrial, Judge.

THE COURT: It absolutely is a mistrial.

MR. REICHHARDT: It is a mistrial.

THE COURT: If you strike him from the jury then what you're asking the Court to do is declare a mistrial in this case, do you agree with that?

MR. REICHHARDT: Exactly. But I don't

know what -- Your Honor, just if I may respond briefly, it's not a question of tactical consideration or anything else. There was a jury panel empaneled --

THE COURT: I just a soon you answer my question before you respond to his argument, sir.

I want the record to be clear that you are asking for a mistrial in this case.

MR. REICHHARDT: Yes, sir.

MR. WILLETT: Judge, I'd like to continue with respect to my position.

THE COURT: Go ahead.

MR. WILLETT: I don't think we get to that. I think that's the ultimate extreme. Mr. Jackson came in, he said I'm more towards that side because I know it's a tough job, I'm a little bit more leaning towards that side. I asked him if he could objectively hear the evidence, and he said, I think I can.

He can be no more positive in that regard. I asked him if he could follow the law, he said that he would. Now, the courts of appeal give great deference and wide range to the trial court's discretion because it's the trial judge who sits and observes more than just the answers on the record, what his demeanor and his mannerisms.

And I think the Court can say -- I think Mr. Reichhardt would agree for the record, that he is an extremely all presenting young man. He is honest, he is straightforward. He brought this out because he had some vague feeling that he was more law enforcement oriented, but that was known to everybody in this courtroom.

For goodness sakes, he's an FBI agent,

everybody knows that. Nothing he says adds anything to what the defense already knew, and it was a tactical decision. Perhaps they felt that there would be some resentment on the part of Mr. Jackson, that would inure to the Defendant's benefit if he was not struck.

Nothing this man said added anything to the knowledge that we have here today. And to the extent that it was articulated more specifically, it is not sufficient to remove him from the panel for cause and mistry this case at this time.

MR. REICHHARDT: Your Honor, if I amy briefly.

THE COURT: Go ahead.

MR. REICHHARDT: On the Court's inquiry you asked this gentlemen, can you be impartial. That's the Court's inquiry. The answer was no. He's put the Court on notice, he's put the Commonwealth and the defense on notice that he cannot be impartial. I don't know what choice there is under those circumstances. I'm not aware of any law or authority that allows a court to ignore that.

THE COURT: All right. I think the questions that were asked by the Court and by counsel collectively were sufficient to have flushed out the failings that Mr. Jackson expressed to us on his individual voir dire, and should have. Why they didn't is a matter, I guess, of no moment at this point.

But they should have flushed out this bias that he has toward law enforcement. And taken as a whole, Mr. Willett, I have to say that his questions leave this Judge with some substantial doubt as to whether he can view this evidence impartially, fairly and render a decision based on that without bringing in the baggage that he has described here today.

he has told us two or three different

times that he would view the testimony of law enforcement officers in a way different than he would view the testimony of other witnesses. That he has a bias towards law enforcement officers because of his employment. And I can't ignore that.

MR. WILLETT: I understand that that is a matter within Your Honor's sound discretion.

THE COURT: It is especially true when this comes up not in response to questioning both unsolicited and spontaneously from the juror at the point in time when it did. And I think that adds greater force, frankly, to the concerns and their address. The Court has no choice but to strike him for cause. Consequently, I'll grant the Defendant's motion for a mistrial.

MR. WILLETT: Judge, might we not see if we can impanel a twelfth juror? Judge, I beseech the Court on this. Ms. Martin has been struggling with this since November. She has gotten ready for trial twice now. The first time she got ready for trial it was continued because he -- (indicating) no longer wanted to accept the plea and recommendation, and he didn't tell his lawyers about that until we were --

MR. REICHHARDT: I object to his representation.

MR. WILLETT: I'll finish my statement, Mr. Reichhardt.

MR. REICHHARDT: Well, I do object to it.

MR. WILLETT: You can object to it when I finish.

THE COURT: Let him finish.

MR. WILLETT: And it wasn't until we were literally walking down the hallway into Your Honor's courtroom that Mr. Reichhardt became

aware of this. Now that's not his fault. And I understand that his client has a right to a trial by jury.

But I've got a young woman here, Your Honor, who has gone through a difficult time, and if we can possibly impanel a twelfth juror I think we should proceed.

THE COURT: Well, let's pursue that for a minute. It is possible that we could get some folks here from which the parties could pick a twelfth juror. We could leave these eleven, I suppose, and get some folks from which the parties could pick a twelfth juror.

MR. REICHHARDT: That's agreeable, Your Honor, if it's possible. We're not interested in any artificial delay. This has come up, we've had to deal with it. But if there's a possibility, I've certainly discussed it with Mr. Collins and he's indicated, at least preliminarily to me, that if there's a possibility, let's explore it.

THE COURT: Well, that's what we're doing now.

You talk to your client, I'm going to take a recess and see what the practicalities of doing something along those lines before we go any further today. Court's in recess.

(Brief recess.)

THE COURT: For the record this is the case of Commonwealth versus Collins. Let the record reflect the Defendant, his counsel, and the Assistant Commonwealth's Attorney are all present in the court.

We discussed, gentlemen, the possibility or trying this case with the eleven people that are impaneled, plus another to be picked by the parties.

Have you discussed that with your client,

Mr. Reichhardt?

MR. REICHHARDT: I have, Your Honor, that's agreeable. To stay with these eleven and pick the twelfth juror.

THE COURT: And the way you would propose to pick the twelfth juror, you and Mr. Willett, is for the Court to bring in five people, question five people. You can each strike.

MR. REICHHARDT: Yes, sir.

MR. WILLETT: My thought was --

THE COURT: Do we need five?

MR. WILLETT: Bring in five, impanel three, have two spares. Question those three. If there are no strikes for cause then each side would get a preemptory and that would leave us one. If there was a strike for cause, then we would have two more that we could bring to keep a panel of three.

MR. REICHHARDT: I don't have any objection to that procedure, it sounds reasonable to me.

THE COURT: There is a possibility that we can accomplish that today. We can produce five people here and we're going to try and do that. So, what I'm going to do is this. I'm going to recess at this point, give the administrative folks an opportunity to get five people in here. I'm advised that they don't think they can do that before two o'clock. We're going to have to recess until two and come back at that time.

Is this agreeable?

MR. WILLETT: Yes, Your Honor.

MR. REICHHARDT: Yes, sir.

THE COURT: I'm going to bring Mr. Jackson in and excuse him from further service. And bring in the rest of the eleven and tell them we're going to be in recess until two. And say as little as possible about this as I can to make it intelligible to them. I don't think they need to know anymore than that.

So, bring Mr. Jackson in.

(Whereupon, Mr. Jackson entered the courtroom and resumed a seat in the jury box.)

THE COURT: Mr. Jackson, in view of your answers to the questions that were posed to you individually, it's the Court's decision to excuse you from service on this jury. And I appreciate your candor in this matter, and the parties do as well. you're excused and you're free to go at this time, sir.

(Whereupon, Mr. Jackson left the courtroom.)

MR. WILLETT: While they're coming in, then, I take it then that counsel withdraws a motion for a mistrial under the circumstances?

MR. REICHHARDT: Your Honor, at this point I think there's a stipulation as to proceeding in this manner, and that has the effect of, I'm assuming, of withdrawing the motion for a mistrial and the Court's granting that motion.

THE COURT: I agree, provided we can proceed as we outlined. The effect of this is to vitiate the fact that the jury was sworn and vitiate jeopardy having attached, by consent. I think that's reasonable.

MR. WILLETT: While they're coming in, then, I take it then that counsel withdraws a motion for a mistrial under the circumstances?

MR. REICHHARDT: Your Honor, at this point I think there's a stipulation as to proceeding in this manner, and that has the effect of, I'm assuming, of withdrawing the motion for a mistrial and the Court's granting that motion.

THE COURT: I agree, provided we can proceed as we outlined. The effect of this is to vitiate the fact that the jury was sworn and vitiate jeopardy having attached, by consent. I think that's reasonable.

(Whereupon, the jury entered the courtroom and resumed their seats in the jury box.)

THE COURT: Let the record reflect that the remaining members of the jury are present in the jury box at this time.

Members of the jury, you will note that your number has been reduced by one. What we're going to have to do at this point is to try and secure another member of the jury. That's going to take us some administrative goings on to accomplish, if we can.

And what we're going to do at this point, I'm going to excuse you for lunch. I'd ask that you go to lunch and be back here promptly at two o'clock. That will give you more than enough time. And I hopeful that we're going to be able to proceed with this matter today if we can rectify this problem. If we can we intend to do so. It's going to take us a little time. So, would you please go to lunch, be back here promptly at two o'clock.

Let me say this. While you're at the luncheon recess let me admonish you, you're not to discuss this case with anyone, that includes among yourselves nor read or receive any information about the case. With that in mind, you're free to go, be back at two o'clock promptly.

(Whereupon, the jury departed from the

courtroom.)

THE COURT: I'd like to see counsel back here about quarter to two. Court's in recess until then.

(Whereupon, at approximately 11:33 o'clock a.m. the hearing in the above-entitled matter was recessed to be reconvened at 1:45 P.M.)

AFTERNOON SESSION

(Whereupon, at approximately 1:55 p.m., the hearing in the above-entitled matter was reconvened.)

THE COURT: For the record, these are the cases of Commonwealth versus Collins, Criminal Numbers 32716 through 32737. Let the record reflect the Defendant is present in court with his counsel, Mr. Reichhardt and Mr. DeClark, the Commonwealth's represented by Mr. Willett.

You gentlemen have received what's called a supplemental jury list.

MR. WILLETT: Yes, sir.

MR. REICHHARDT: Yes.

THE COURT: you will note that three of those -- well, three of the people in that list, Sharon Hamilton, Henry Waller and Kenneth Knowles appear in one group and Elias Saffouri and Wendy Hale appear in another. They are the spares, if you will. They've been sort of just arbitrarily arranged that way.

So, as I foresee the procedure to be used, assuming there are no problems with or challenges for cause of the first three, voir dire will be conducted of those three, each side will strike one of them leaving one of the first three to serve as the trial juror.

Does that comport with the understanding of the parties?

MR. WILLETT: Yes, Your Honor.

MR. REICHHARDT: Yes, Your Honor.

THE COURT: In the event a challenge for cause is receded and sustained, we'll replace that person who is challenged in the group with one of the spares. The net result, then, will be that the trial jury will be composed of the eleven original persons who remain from the first jury and whichever one of the persons survives this process of this five; is that your understanding of how to proceed?

MR. WILLETT: Yes, sir.

THE COURT: You're in agreement with that Mr. Reichhardt?

MR. REICHHARDT: Yes, Your Honor.

THE COURT: Have you discussed that with your client, sir?

MR. REICHHARDT: I have, Your Honor.

THE COURT: I'm sure you have, but let me just confirm that.

Mr. Collins, you've discussed this with counsel, have you?

THE DEFENDANT: Yes, sir.

THE COURT: You have been here throughout these proceedings, so let me just confirm your understanding of it. The jury that will serve as your trial jury will be composed of the eleven people from the original trial jury, together with one of the people from this group of five. And the way that person will be identified is as, that's just been described by me. Do you understand all that?

THE DEFENDANT: Yes.

THE COURT: Are you in agreement with that, sir?

THE DEFENDANT: Yes.

THE COURT: And I am, without going into much detail with the five people, I'm just going to tell them that we needed one more person to make up a twelve person jury and let it go at that. I'm not going to tell them why we're just picking one juror or any more detail than that. I will tell them, of course, about the prosecutions and the like.

(Whereupon, the potential jurors entered the courtroom.)

* * *

V I R G I N I A:
CIRCUIT COURT OF THE COUNTY OF PRINCE WILLIAM

COMMONWEALTH OF VIRGINIA CR 32716

VS. FELONY - ATTEMPTED CAPITAL MURDER
18.2-31 & 18.2-25
OFFENSE DATE 11/16/92

RICHARD SHANE COLLINS
AKA RICHARD TWEEDLIE
SSN 224-02-1877 DOB 08/11/70

On SEPTEMBER 23, 1993, RICHARD SHANE COLLINS, AKA RICHARD TWEEDLIE, defendant, who stands convicted of the felong described above, appeared before the Court. Also appearing were the Attorney for the Commonwealth and William Reichardt, counsel for the defendant.

This case came on this day for the report of the Probation Officer and sentencing of the defendant. The Probation Officer appeared with a written report, which report was presented to the Court in the presence of the defendant who was fuly advised of the contents of the report and a copy of said report was also delivered to counsel for the defendant.

The defendant was given the right to cross-examine the Probation Officer as to the report and to present any additional facts bearing upon the matter. The report of the Probation officer was filed as a part of the record.

Having taken into consideration the evidence in the case, the report of the Probation Officer and such additional matters as were presented by the defendant, and having demanded of the defendant if he defendant had or knew of anything to say as to why sentence should not be imposed, and nothing being offered, the Court enters judgment on the verdict of the jury and sentences the defendant

to confinement in the penitentiary of the Commonwalth for a term of life. The Court orders that the Commonwealth of Virginia recover from the defendant its costs plus interest until paid in full. This sentence, and any suspended portion thereof, shall run consecutively to any other sentence imposed upon the defendant.

The Court proceeded to advise the defendant of the right to appeal, including the right to have an attorney appointed to represent the defendan and to have the attorney's fees, costs and expenses in connection with an appeal paid for in the event the defendant is financially unable to pay the same.

Thereupon the Court, upon the representations of the defendant that the defendant was unable to retain counsel, appointed William Reichardt, to represent the defendant should the defendant elect to appeal this matter.

And it is further ordred that as soon as possible after the entry of this order the defendant be removed and safely conveyed according to law from the Prnce William-Manassas Regional Adult Detention Center to the said penitentiary.

The Court Orders that the defendant be allowed credit for the time spent in the jail awaiting trial or a proceeding pertaining to this matter.

The Court certifies that at all times during the trial of this case the defendant was personally present as was defense counsel who capably represented the defendant.

And the defendant is remanded to jail to await transfer to the penitentiary.

Entered this 28 day of September, 1993.

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WILLIAM D. HAMBLEN, JUDGE

V I R G I N I A:

IN THE CIRCUIT COURT OF THE COUNTY OF PRINCE WILLIAM

COMMONWEALTH OF VIRGINIA CR32717

VS. FELONY - ROBBERY
18.2-58
OFFENSE DATE 11/16/92

RICHARD SHANE COLLINS
AKA RICHARD TWEEDLIE
SSN 224-02-1877 DOB 08/11/70

On SEPTEMBER 23, 1993, RICHARD SHANE COLLINS, AKA RICHARD TWEEDLIE, defendant, who stands convicted of the felong described above, appeared before the Court. Also appearing were the Attorney for the Commonwealth and William Reichardt, counsel for the defendant.

This case came on this day for the report of the Probation Officer and sentencing of the defendant. The Probation Officer appeared with a written report, which report was presented to the Court in the presence of the defendant who was fully advised of the contents of the report and a copy of said report was also delivered to counsel for the defendant.

The defendant was given the right to cross-exmaine the Probation Officer as to the report and to present any additional facts bearing upon the matter. The report of the Probation Officer was filed as a part of the record.

Having taken into consideration the evidence in the case, the report of the Probation Officer and such additional matters as were presented by the defendant, and having demanded of the defendant if the defendant had or knew of anything to say as to why sentence should not be imposed, and nothing be-

ing offered, the Court enters judgment on the verdict of the jury and sentences the defendant to confinement in the penitentiary of the Commonwealth for a term of fifty (50) years, which sentence the Court suspends the execution thereof upon condition the defendant keep the peace and be of uniform good behavior. The Court orders that the Commonwealth of Virginia recover from the defendant its costs plus interest until paid in full. This sentence, and any suspended portion thereof, shall run consecutively to any other sentence imposed upon the defendant.

The Court, being of the opinion that it is compatible with the public interest to do so, ORDERS that the defendant shall be placed on probation under the supervision of a Probation Officer of this Court for a period of ten (10) years, such probation to begin after the defendant's release from any incarceration pursuant to this or any other order.

It is the ORDER of this Court that the defendant, while on probation as aforesaid, shall comply with all of the conditions of probation as contained and shown in Form PPS 2 of the Virginia Department of Corrections, which are by reference included herein and made a part of this order.

It is further ordered as a special condition of the defendant's supervised probation that the defendant pay his court costs within twelve (12) months of release from incarceration.

The Court proceeded to advise the defendant of the right to appeal, including the right to have an attorney appointed to represent the defendant and to have the attorney's fees, costs and expenses in connection with an appeal paid for in the event the defendant is financially unable to pay the same.

Thereupon the Court, upon the representations of the defendant that the defendant was

unable to retain counsel, appointed William Reichardt, to represent the defendant should the defendant elect to appeal this matter.

The Court certifies that at all times during the trial of this case the defendant was personally present as was defense counsel who capably represented the defendant.

And the defendant is remanded to jail to await transfer to the penitentiary in other charges.

Entered this 28 day of September, 1993.

WILLIAM D. HAMBLEN, JUDGE

VIRGINIA:
CIRCUIT COURT OF THE COUNTY OF PRINCE WILLIAM

COMMONWEALTH OF VIRGINIA CR32718

VS. FELONY - ABDUCTION
18.2.-48
OFFENSE DATE 11/16/92

RICHARD SHANE COLLINS
AKA RICHARD TWEEDLIE
SSN 224-02-1877 DOB 08/11/70

On SEPTEMBER 23, 1993, RICHARD SHANE COLLINS, AKA RICHARD TWEEDLIE, defendant, who stands convicted of the felony described above, appeared before the Court. Also appearing were the Attorney for the Commonwealth and William Reichardt, counsel for the defendant.

This case came on this day for the report of the Probation Officer and sentencing of the defendant. The Probation Officer appeared with a written report, which report was presented to the Court in the presence of the defendant who was fully advised of the contents of the report and a copy of said report was also delivered to counsel for the defendant.

The defendant was given the right to cross-examine the probation Officer as to the report and to present any additional facts bearing upon the matter. The report of the Probation Officer was filed as a part of the record.

Having taken into consideration the evidence in the case, the report of the Probation Officer and such additional matters as were pressented by the defendant, and having demanded of the defendant if the defendant had or knew of anything to say as to why sentence should not be imposed, and nothing being offered, the Court enters judgment on the verdict of the jury and sentences the defen-

dant to confinement in the penitentiary of the Commonwealth for a term of life. The Court orders that the Commonwealth of Virginia recover from the defendant its costs plus interest until paid in full. This sentence, and any suspended portion thereof, shall run consecutively to any other sentence imposed upon the defendant.

The Court proceeded to advise the defendant of the right to appeal, including the right to have an attorney appointed to represent the defendant and to have the attorney's fees, costs and expenses in connection with an appeal paid for in the event the defendant is financially unable to pay the same.

Thereupon the Court, upon the representations of the defendant that the defendant was unable to retain counsel, appointed William Reichardt, to represent the defendant should the defendant elect to appeal this matter.

And it is further ordered that as soon as possible after the entry of this order the defendant be removed and safely conveyed according to law from the Prince William-Manassas Regional Adult Detention Center to the said penitentiary.

The Court Orders that the defendant be allowed credit for the time spent in the jail awaiting trial or a proceeding pertaining to this matter.

The Court certifies that at all times during the trial of this case the defendant was personally present as was defense counsel who capably represented the defendant.

And the defendant is remanded to jail to await transfer to the penitentiary.

Entered this 28 day of September, 1993.

WILLIAM D. HAMBLEN, JUDGE

VIRGINIA:
CIRCUIT COURT OF THE COUNTY OF PRINCE WILLIAM

COMMONWEALTH OF VIRGINIA CR32719

VS. FELONY - FORCIBLE SODOMY
18.2-67.1
OFFENSE DATE 11/16/92

RICHARD SHANE COLLINS
AKA RICHARD TWEEDLIE
SSN 224-02-1877 DOB 08/11/70

On SEPTEMBER 23, 1993, RICHARD SHANE COLLINS, AKA RICHARD TWEEDLIE, defendant, who stands convicted of the felony described above, appeared before the Court. Also appearing were the Attorney for the Commonwealth and William Reichardt, counsel for the defendant.

This case came on this day for the report of the Probation Officer and sentencing of the defendant. The Probation Officer appeared with a written report, which report was presented to the Court in the presence of the defendant who was fully advised of the contents of the report and a copy of said report was also delivered to counsel for the defendant.

The defendant was given the right to cross-examine the Probation Officer as to the report and to present any additional facts bearing upon the matter. The report of the Probation Officer was filed as a part of the record.

Having taken into consideration the evidence in the case, the report of the Probation Officer and such additional matters as were presented by the defendant, and having demanded of the defendant if the defendant had or knew of anything to say as to why sentence should not be imposed, and nothing being offered, the Court enters judgment on the verdict of the jury and sentences the defen-

dant to confinement in the penitentiary of the Commonwealth for a term of life. The Court orders that the Commonwealth of Virginia recover from the defendant its costs plus interest until paid in full. This sentence, and any suspended portion thereof, shall run consecutively to any other sentence imposed upon the defendant.

The Court proceeded to advise the defendant of the right to appeal, including the right to have an attorney appointed to represent the defendant and to have the attorney's fees, costs and expenses in connection with an appeal paid for in the event the defendant is financially unable to pay the same.

Thereupon the Court, upon the representations of the defendant that the defendant was unable to retain counsel, appointed William Reichardt, to represent the defendant should the defendant elect to appeal this matter.

And it is further ordered that as soon as possible after the entry of this order the defendant be removed and safely conveyed according to law from the Prince William-Manassas Regional Adult Detention Center to the said penitentiary.

The Court orders that the defendant be allowed credit for the time spent in the jail awaiting trial or a proceeding pertaining to this matter.

The Court certifies that al all times during the trial of this case the defendant was personally present as was defense counsel who capably represented the defendant.

And the defendant is remanded to jail to await transfer to the penitentiary.

Entered this 28 day of September, 1993.

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WILLIAM D. HAMBLEN, JUDGE

VIRGINIA:
CIRCUIT COURT OF THE COUNTY OF PRINCE WILLIAM

COMMONWEALTH OF VIRGINIA CR32720

VS. FELONY - USE OR DISPLAY OF A FIREARM IN THE COMMISSION OF ROBBERY 18.2-53.1
OFFENSE DATE 11/16/92

RICHARD SHANE COLLINS
AKA RICHARD TWEEDLIE
SSN 224-02-1977 DOB 08/11/70

On SEPTEMBER 23, 1993, RICHARD SHANE COLLINS, AKA RICHARD TWEEDLE, defendant, who stands convicted of the felony described above, appeared before the Court. Also appearing were the Attorney for the Commonwealth and William Reichardt, counsel for the defendant.

This case came on this day for the report of the Probation Officer and sentencing of the defendant. The Probation Officer appeared with a written report, which report was presented to the Court in the presence of the defendant who was fully advised of the contents of the report and a copy of said report was also delivered to counsel for the defendant.

The defendant was given the right to cross-examine the Probation Officer as to the report and to present any additional facts bearing upon the matter. The report of the Probation Officer was filed as a part of the record.

Having taken into consideration the evidence in the case, the report of the Probation Officer and such additional matters as were presented by the defendant, and having demanded of the defendant if the defendant had or knew of anything to say as to why sentence should not be imposed, and nothing being offered, the Court enters judgment on the

verdict of the jury and sentneces the defendant to confinement in the penitentiary of the Commonwealth for a term of two (2) years. The Court orders that teh Commonwealth of Virginia recover from the defendant its costs plus interest until paid in full. This sentence, and any suspended portion thereof, shall run consecutively to any other sentnece imposed upon the defendant.

The Court proceeded to advise the defendant of the right to appeal, including the right to have an attorney appointed to represent the defendant and to have the attorney's fees, costs and expenses in connection with an appeal paid for in the event the defendant is financially unable to pay the same.

Thereupon the Court, upon the representations of the defendant that the defendant was unable to retain counsel, appointed William Reichardt, to represen tthe defendant should the defendant elect to appeal this matter.

And it is further ordered that as soon as possible after the entry of this order the defendant be removed and safely conveyed according to law from the Prince William-Manassas Regional Adult Detention Center to the said penitentiary.

The Court Orders that the defendant be allowed credit for the time spent in the jail awaiting trial or a proceeding pertaining to this matter.

The Court certifies that at all times during the trial of this case the defendant was personally present as was defense counsel who capably represented the defendant.

And the defendant is remanded to jail to await transfer to the penitentiary.

Entered this 28 day of September, 1993.

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WILLIAM D. HAMBLEN, JUDGE

VIRGINIA:
CIRCUIT COURT OF THE COUNTY OF PRINCE WILLIAM

COMMONWEALTH OF VIRGINIA CR32721

VS. FELONY - POSSESSION OF A FIREARM
BY A CONVICTED FELON 18.2-308.2
OFFENSE DATE 11/17/92

RICHARD SHANE COLLINS
AKA RICHARD TWEEDLIE
SSN 224-02-1877 DOB 08/11/70

On SEPTEMBER 23, 1993, RICHARD SHANE COLLINS, AKA RICHARD TWEEDLIE, defendant, who stands convicted of the felony described above, appeared before the Court. Also appearing were the Attorney for the Commonwealth and William Reichardt, counsel for the defendant.

This case came on this day for the report of the Probation Officer and sentencing of the defendant. The Probation Officer appeared with a written report, which report was presented to the Court in the presence of the defendant who was fully advised of the contents of the report and a copy of said report was also delivered to counsel for the defendant.

The defendant was given the right to cross-examine the Probation Officer as to the report and to present any additional facts bearing upon the matter. The report of the Probation Officer was filed as a part of the record.

Having taken into consideration the evidence in the case, the report of the Probation Officer and such additional matters as were presented by the defendant, and having demanded of the defendant if the defendant had or knew of anything to say as to why sentence should not be imposed, and nothing being offered, the Court enters judgment on the verdict of the jury and sentences the defen-

dant to confinement in the penitentiary of the Commonwealth for a term of five (5) years, which sentence the Court suspends the execution thereof upon condition the defendant keep the peace and be of uniform good behavior. The Court orders that the Commonwealth of Virginia recover from the defendant its costs plus interest until paid in full. This sentence, and any suspended portion thereof, shall run consecutively to any other sentence imposed upon the defendant.

The Court, being of the opinion that it is compatible with the public interest to do so, ORDERS that the defendant shall be placed on probation under the supervision of a Probation Officer of this Court for a period of ten (10) years, such probation to begin after the defendant's release from any incarceration pursuant to this or any other order.

It is the ORDER of this Court that the defendant, while on probation as aforesaid, shall comply with all of the conditions of probation as contained and shown in Form PPS 2 of the Virginia Department of Corrections, which are by reference included herein and made a part of this order.

It is further ordered as a special condition of the defendant's supervised probation that the defendant pay his court costs within twelve (12) months of release from incarceration.

The Court proceeded to advise the defendant of the right to appeal, including the right to have an attorney appointed to represent the defendant and to have the attorney's fees, costs and expenses in connection with an appeal paid for in the event the defendant is financially unable to pay the same.

Thereupon the Court, upon the representations of the defendant that the defendant was unable to retain counsel, appointed William Reichardt, to represent the defendant should

the defendant elect to appeal this matter.

The Court certifies that at all times during the trial of this case the defendant was personally present as was the defense counsel who capably represented the defendant.

And the defendant is remanded to jail to await transfer to the penitentiary in other charges.

Entered this 28 day of September, 1993.

WILLIAM D. HAMBLEN, JUDGE

VIRGINIA:
CIRCUIT COURT OF THE COUNTY OF PRINCE WILLIAM

COMMONWEALTH OF VIRGINIA CR32722

VS. FELONY - ESCAPE
18.2-478
OFFENSE DATE 11/18/92

RICHARD SHANE COLLINS
AKA RICHARD TWEEDLIE
SSN 224-02-1877 DOB 08/11/70

On SEPTEMBER 23, 1993, RICHARD SHANE COLLINS, AKA RICHARD TWEEDLIE, described above, appeared before the Court. Also appearing were the Attorney for the Commonwealth and William Reichardt, counsel for the defendant.

This case came on this day for the report of the Probation Officer and sentencing of the defendant. The Probation Officer appeared with a written report, which report was presented to the Court in the presence of the defendant who was fully advised of the contents of the report and a copy of said report was also delivered to counsel for the defendant.

The defendant was given the right to cross-examine the Probation Officer as to the report and to present any additional facts bearing upon the matter. The report of the Probation Officer was filed as a part of the record.

Having taken into consideration the evidence in the case, the report of the Probation Officer and such additional matters as were presented by the defendant, and having demanded of the defendant if the defendant had or knew of anything to say as to why sentence should not be imposed, and nothing being offered, the Court enters judgment on the verdict of the jury and sentences the defendant to confinement in the penitentiary of the Commonwealth for a term of five (5)

years, which sentence the Court suspends the execution thereof upon condition the defendant keep the peace and be of uniform good behavior. The Court orders that the Commonwealth of Virginia recover from the defendant its costs plus interest until paid in full. This sentence, and any suspended portion thereof, shall run consecutively to any other sentence imposed upon the defendant.

The Court, being of the opinion that it is compatible with the public interest to do so, ORDERS that the defendant shall be placed on probation under the supervision of a Probation Officer of thsi Court for a period of ten (10) years, such probation to begin after the defendant's release from any incarceration pursuant to this or any other order.

It is the ORDER of this Court that the defendant, while on probation as aforesaid, shall comply with all of the conditions of probation as contained and shown in Form PPS 2 ofc the Virgnia Department of Corrections, which are by reference included herein and made a part of this order.

It is further ordered as a special condition of the defendant's supervised probation that the defendant pay his court costs within twelve (12) months of release from incarceration.

The Court proceeded to advise the defendant of the right to appeal, including the right to have an attorney appointed to represent the defendant and to have the attorney's fees, costs and expenses in connection with an appeal paid for in the event the defendant is financially unable to pay the same.

Thereupon the Court, upon the representations of the defendant that the defendant was unable to retain counsel, appointed William Reinhardt, to represent the defendant should the defendant elect to appeal this matter.

The Court certifies that at all times during the trial of this case the defendant was personally present as was defense counsel who capably represented the defendant.

And the defendant is remanded to jail to await transfer to the penitentiary in other charges.

Entered this 28 day of September, 1993.

WILLIAM D. HAMBLEN, JUDGE

VIRGINIA:
CIRCUIT COURT OF THE COUNTY OF PRINCE WILLIAM

COMMONWEALTH OF VIRGINIA CR32733

VS. FELONY - USE OR DISPLAY OF A FIREARM IN THE COMMISSION OF ABDUCTION
18.2-53.1
OFFENSE DATE 11/16/92

RICHARD SHANE COLLINS
AKA RICHARD TWEEDLIE
SSN 224-02-1877 DOB 08/11/70

On SEPTEMBER 23, 1993, RICHARD SHANE COLLINS, AKA RICHARD TWEEDLIE, described above, appeared before the Court. Also appearing were the Attorney for the Commonwealth and William Reichardt, counsel for the defendant.

This case came on this day for the report of the Probation Officer and sentencing of the defendant. The Probation Officer appeared with a written report, which report was presented to the Court in the presence of the defendant who was fully advised of the contents of the report and a copy of said report was also delivered to counsel for the defendant.

The defendant was given the right to cross-examine the Probation Officer as to the report and to present any additional facts bearing upon the matter. The report of the Probation Officer was filed as a part of the record.

Having taken into consideration the evidence in the case, the report of the Probation Officer and such additional matters as were presented by the defendant, and having demanded of the defendant if the defendant had or knew of anything to say as to why sentence should not be imposed, and nothing being offered, the Court enters judgment on the verdict of the jury and sentences the defendant to confinement in the penitentiary of

the
of the Commonwealth for a term of four (4) years. The Court orders that the Commonwealth of Virginia recover from the defendant its costs plus interest until paid in full. This sentence, and any suspended protion thereof, shall run consecutively to any other sentence imposed upon the defendant.

The Court proceeded to advise the defendant of the right to appeal, including the right to have an attorney appointed to represent the defendant and to have the attorney's fees, costs and expenses in connection with an appeal paid for in the event the defendant is financially unable to pay the same.

Thereupon the Court, upon the representations of the defendant that the defendant was unable to retain counsel, appointed William Reinhardt, to represent the defendant should the defendant elect to appeal this matter.

And it is further ordered that as soon as possible after the entry of this order the defendant be removed and safely conveyed according to law from the Prince William-Manassas Regional Adult Detention Center to the said penitentiary.

The Court Orders that the defendant be allowed credit for the time spent in the jail awaiting trail or a proceeding pertaining to this matter.

The Court certifies that at all times during the trial of this case the defendant was personally present as was defense counsel who capably represented the defendant.

And the defendant is remanded to jail to await transfer to the penitentiary in other charges.

Entered this 28 day of September, 1993.

WILLIAM D. HAMBLEN, JUDGE

VIRGINIA:
CIRCUIT COURT OF THE COUNTY OF PRINCE WILLIAM

COMMONWEALTH OF VIRGINIA CR32734

VS. FELONY - USE OR DISPLAY OF A FIREARM IN THE COMMISSION OF A FORCIBLE SODOMY
18.2-53.1
OFFENSE DATE 11/16/92

RICHARD SHANE COLLINS
AKA RICHARD TWEEDLIE
SSN 224-02-1877 DOB 08/11/70

On SEPTEMBER 23, 1993, RICHARD SHANE COLLINS, AKA RICHARD TWEEDLIE, described above, appeared before the Court. Also appearing were the Attorney for the Commonwealth and William Reichardt, counsel for the defendant.

This case came on this day for the report of the Probation Officer and sentencing of the defendant. The Probation Officer appeared with a written report, which report was presented to the Court in the presence of the defendant who was fully advised of the contents of the report and a copy of said report was also delivered to counsel for the defendant.

The defendant was given the right to cross-examine the Probation Officer as to the report and to present any additional facts bearing upon the matter. The report of the Probation Officer was filed as a part of the record.

Having taken into consideration the evidence in the case, the report of the Probation Officer and such additional matters as were presented by the defendant, and having demanded of the defendant if the defendant had or knew of anything to say as to why sentence should not be imposed, and nothing being offered, the Court enters judgment on the verdict of the jury and sentences the defendant to confinement in the penitentiary of

the
of the Commonwealth for a term of four (4) years. The Court orders that the Commonwealth of Virginia recover from the defendant its costs plus interest until paid in full. This sentence, and any suspended protion thereof, shall run consecutively to any other sentence imposed upon the defendant.

The Court proceeded to advise the defendant of the right to appeal, including the right to have an attorney appointed to represent the defendant and to have the attorney's fees, costs and expenses in connection with an appeal paid for in the event the defendant is financially unable to pay the same.

Thereupon the Court, upon the representations of the defendant that the defendant was unable to retain counsel, appointed William Reinhardt, to represent the defendant should the defendant elect to appeal this matter.

And it is further ordered that as soon as possible after the entry of this order the defendant be removed and safely conveyed according to law from the Prince William-Manassas Regional Adult Detention Center to the said penitentiary.

The Court Orders that the defendant be allowed credit for the time spent in the jail awaiting trail or a proceeding pertaining to this matter.

The Court certifies that at all times during the trial of this case the defendant was personally present as was defense counsel who capably represented the defendant.

And the defendant is remanded to jail to await transfer to the penitentiary in other charges.

Entered this 28 day of September, 1993.

WILLIAM D. HAMBLEN, JUDGE

VIRGINIA:
CIRCUIT COURT OF THE COUNTY OF PRINCE WILLIAM

COMMONWEALTH OF VIRGINIA CR32735

VS. FELONY - USE OR DISPLAY OF A FIREARM
IN THE COMMISSION OF ATTEMPTED RAPE
18.2-53.1
OFFENSE DATE 11/16/92

RICHARD SHANE COLLINS
AKA RICHARD TWEEDLIE
SSN 224-02-1877 DOB 08/11/70

On SEPTEMBER 23, 1993, RICHARD SHANE COLLINS, AKA RICHARD TWEEDLIE, described above, appeared before the Court. Also appearing were the Attorney for the Commonwealth and William Reichardt, counsel for the defendant.

This case came on this day for the report of the Probation Officer and sentencing of the defendant. The Probation Officer appeared with a written report, which report was presented to the Court in the presence of the defendant who was fully advised of the contents of the report and a copy of said report was also delivered to counsel for the defendant.

The defendant was given the right to cross-examine the Probation Officer as to the report and to present any additional facts bearing upon the matter. The report of the Probation Officer was filed as a part of the record.

Having taken into consideration the evidence in the case, the report of the Probation Officer and such additional matters as were presented by the defendant, and having demanded of the defendant if the defendant had or knew of anything to say as to why sentence should not be imposed, and nothing being offered, the Court enters judgment on the verdict of the jury and sentences the defendant to confinement in the penitentiary of

the
of the Commonwealth for a term of four (4) years. The Court orders that the Commonwealth of Virginia recover from the defendant its costs plus interest until paid in full. This sentence, and any suspended protion thereof, shall run consecutively to any other sentence imposed upon the defendant.

The Court proceeded to advise the defendant of the right to appeal, including the right to have an attorney appointed to represent the defendant and to have the attorney's fees, costs and expenses in connection with an appeal paid for in the event the defendant is financially unable to pay the same.

Thereupon the Court, upon the representations of the defendant that the defendant was unable to retain counsel, appointed William Reinhardt, to represent the defendant should the defendant elect to appeal this matter.

And it is further ordered that as soon as possible after the entry of this order the defendant be removed and safely conveyed according to law from the Prince William-Manassas Regional Adult Detention Center to the said penitentiary.

The Court Orders that the defendant be allowed credit for the time spent in the jail awaiting trail or a proceeding pertaining to this matter.

The Court certifies that at all times during the trial of this case the defendant was personally present as was defense counsel who capably represented the defendant.

And the defendant is remanded to jail to await transfer to the penitentiary in other charges.

Entered this 28 day of September, 1993.

WILLIAM D. HAMBLEN, JUDGE

VIRGINIA:
CIRCUIT COURT OF THE COUNTY OF PRINCE WILLIAM

COMMONWEALTH OF VIRGINIA CR32736

VS. FELONY - USE OR DISPLAY OF A FIREARM IN THE COMMISSION OF ATTEMPTED MURDER
18.2-53.1
OFFENSE DATE 11/16/92

RICHARD SHANE COLLINS
AKA RICHARD TWEEDLIE
SSN 224-02-1877 DOB 08/11/70

On SEPTEMBER 23, 1993, RICHARD SHANE COLLINS, AKA RICHARD TWEEDLIE, described abov appeared before the Court. Also appearing were the Attorney for the Commonwealth and William Reichardt, counsel for the defendant.

This case came on this day for the report of the Probation Officer and sentencing of the defendant. The Probation Officer appeared with a written report, which report was presented to the Court in the presence of the defendant who was fully advised of the contents of the report and a copy of said report was also delivered to counsel for the defendant.

The defendant was given the right to cross-examine the Probation Officer as to the report and to present any additional facts bearing upon the matter. The report of the Probation Officer was filed as a part of the record.

Having taken into consideration the evidence in the case, the report of the Probation Officer and such additional matters as were presented by the defendant, and having demanded of the defendant if the defendant had or knew of anything to say as to why sentence should not be imposed, and nothing being offered, the Court enters judgment on the verdict of the jury and sentences the defendant to confinement in the penitentiary of

the
of the Commonwealth for a term of four (4) years. The Court orders that the Commonwealth of Virginia recover from the defendant its costs plus interest until paid in full. This sentence, and any suspended protion thereof, shall run consecutively to any other sentence imposed upon the defendant.

The Court proceeded to advise the defendant of the right to appeal, including the right to have an attorney appointed to represent the defendant and to have the attorney's fees, costs and expenses in connection with an appeal paid for in the event the defendant is financially unable to pay the same.

Thereupon the Court, upon the representations of the defendant that the defendant was unable to retain counsel, appointed William Reinhardt, to represent the defendant should the defendant elect to appeal this matter.

And it is further ordered that as soon as possible after the entry of this order the defendant be removed and safely conveyed according to law from the Prince William-Manassas Regional Adult Detention Center to the said penitentiary.

The Court Orders that the defendant be allowed credit for the time spent in the jail awaiting trail or a proceeding pertaining to this matter.

The Court certifies that at all times during the trial of this case the defendant was personally present as was defense counsel who capably represented the defendant.

And the defendant is remanded to jail to await transfer to the penitentiary in other charges.

Entered this 28 day of September, 1993.

WILLIAM D. HAMBLEN, JUDGE

VIRGINIA:
CIRCUIT COURT OF THE COUNTY OF PRINCE WILLIAM

COMMONWEALTH OF VIRGINIA CR32737

VS. FELONY - ATTEMPTED RAPE
18.2-61 & 18.2-26
OFFENSE DATE 11/16/92

RICHARD SHANE COLLINS
AKA RICHARD TWEEDLIE
SSN 224-02-1877 DOB 08/11/70

On SEPTEMBER 23, 1993, RICHARD SHANE COLLINS, AKA RICHARD TWEEDLIE, described above, appeared before the Court. Also appearing were the Attorney for the Commonwealth and William Reichardt, counsel for the defendant.

This case came on this day for the report of the Probation Officer and sentencing of the defendant. The Probation Officer appeared with a written report, which report was presented to the Court in the presence of the defendant who was fully advised of the contents of the report and a copy of said report was also delivered to counsel for the defendant.

The defendant was given the right to cross-examine the Probation Officer as to the report and to present any additional facts bearing upon the matter. The report of the Probation Officer was filed as a part of the record.

Having taken into consideration the evidence in the case, the report of the Probation Officer and such additional matters as were presented by the defendant, and having demanded of the defendant if the defendant had or knew of anything to say as to why sentence should not be imposed, and nothing being offered, the Court enters judgment on the verdict of the jury and sentences the defendant to pay a fine in the amount of $25,000.00 which fine the Court suspends the

execution thereof, and to confinement in the penitentiary of the of the Commonwealth for a term of ten (10) years, which sentence the Court suspends the execution thereof upon condition the defendant keep the peace and be of uniform. The Court orders that the Commonwealth of Virginia recover from the defendant its costs plus interest until paid in full. This sentence, and any suspended protion thereof, shall run consecutively to any other sentence imposed upon the defendant.

The Court, being of the opinion that it is compatible with the public interest to do so, ORDERS that the defendant shall be placed on probation under the supervision of a Probation Officer of this Court for a period of ten (10) years, such probation to begin after the defendant's release from any incarceration pursuant to this or any other order.

It is the ORDER of this Court that the defendant, while on probation as aforesaid, shall comply with all of the conditions of probation as constained and shown in Form PPS 2 of the Virginia Department of Corrections, which are by reference included herein and made a part of this Order.

It is further ordered as a special condition of the defendant's supervised probation that the defendant pay his court costs within twelve (12) months of release from incarceration.

The Court proceeded to advise the defendant of the right to appeal, including the right to have an attorney appointed to represent the defendant and to have the attorney's fees, costs and expenses in connection with an appeal paid for in the event the defendant is financially unable to pay the same.

Thereupon the Court, upon the representations of the defendant that the defendant was unable to retain counsel, appointed William

Reinhardt, to represent the defendant should the defendant elect to appeal this matter.

And it is further ordered that as soon as possible after the entry of this order the defendant be removed and safely conveyed according to law from the Prince William-Manassas Regional Adult Detention Center to the said penitentiary.

The Court Orders that the defendant be allowed credit for the time spent in the jail awaiting trail or a proceeding pertaining to this matter.

The Court certifies that at all times during the trial of this case the defendant was personally present as was defense counsel who capably represented the defendant.

And the defendant is remanded to jail to await transfer to the penitentiary in other charges.

Entered this 28 day of September, 1993.

WILLIAM D. HAMBLEN, JUDGE